

BOARD OF FORESTRY AND FIRE PROTECTION

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Craig Tarpenning
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, California 95814-4339
Subject: Readoption of Emergency Rule 04-10-01-01E.

February 11, 2005

Dear Mr. Tarpenning:

The Board of Forestry and Fire Protection (Board) is requesting the Office of Administrative Law (OAL) approve readopting the emergency rule titled **Fuel Hazard Reduction Emergency Rule**, OAL Emergency Number 04-10-01-01E. This emergency rule included adoption of 14 CCR section 1052.4 and amendments to 895.1, 1052 and 1052.1. The emergency rule initially became effective June 25, 2004 (EN 04-0615-04E), was renewed on October 26, 2004 (EN 04-1001-01E), and expires on February 24, 2005.

The Board has initiated the process with OAL to make this a permanent rule (Z-04-0824-12) with public noticing published on September 3, 2004. Since that time, every effort has been made to diligently move towards rule adoption and delivery of the Certificate of Compliance to OAL. However, due to the extensive public and legislative interest in this regulation, public hearings have been held monthly between November 3, 2004 through February 9, 2005. This has resulted in using the entire 120 day period of the emergency rule necessitating a renewal. The board confidently expects adoption and delivery of the Certificate of Compliance within the next 120 day period, as concerns regarding the regulation have been addressed.

Readoption of this regulation on an emergency basis is also necessary because the Board can only make permanent rules effective on January 1 of each year as required by Division 4, Chapter 8, Public Resource Code 4554.5. This results in Emergency rule 04-04 10-01E expiring on February 24, 2005 if not readopted. During February 25, 2005 to January 1, 2006, there will be no emergency rule allowing fuel hazard reduction activities permitted by the regulation.

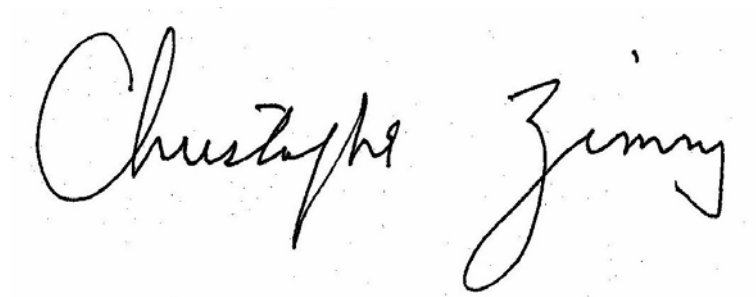
The conditions described in the findings of the emergency conditions contained in Emergency Rule 04-04 10-01E continue to exist. Weather, fuel conditions and vegetation arrangement continue to result in hazardous wildfire conditions, particularly in the southern portions of the State where catastrophic wildfire events occurred in October of 2003. Additionally, the new fire season will soon affect the State, particularly in the hazardous fuel situations in southern California.

Given these situations, the Board is proposing readopting the emergency rule to provide continuing hazard reduction efforts, help alleviate hazardous conditions, and provide time to adopt the permanent rule through the regular rulemaking process.

It is our understanding, in conversation with OAL, if the Certificate of Compliance is filed with OAL prior to the expiration of the readopted emergency rule (approximately in late June, 2005), the readopted emergency rule will stay in effect through 2005 until the permanent rule is made effective on January 1, 2006. This procedure adequately meets the Board's intended course of action for this regulation.

Please make the enclosed emergency rule effective February 25, 2005. Attached is the rule language to be readopted, STD form 400, STD. form 399 and other documents of the rulemaking file previously submitted. Separately, please note that the new Executive Officer of the Board of Forestry and Fire Protection is George Gentry as the OAL "Notice of Approval of Emergency Regulations" has a previous officer named. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink that reads "Christopher Zimny". The signature is written in a cursive, flowing style. The first name "Christopher" is written with a large, looped 'C' and the last name "Zimny" is written with a large, looped 'Z'.

Christopher Zimny
Regulation Coordinator
Board of Forestry and Fire Protection